

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.45 of 2017

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1. The State of Bihar, through the Secretary, Road Construction Department, Vishweshwarraiya Bhawan, Bailey Road, Patna.
 2. The Chief Engineer (North Bihar), Road Construction Department, Darbhanga.
 3. The Superintending Engineer, Road Construction Department, Road Circle, Saharsa.
 4. The Executive Engineer, Road Construction Department, Road Division, Madhepura.

... .. Respondents-Petitioners

Versus

Shri Dinesh Kumar Yadav, S/o- Shri Rajendra Pd. Yadav, R/o- Azad Nagar,
Ward No.- 09, Madhepura, P.S.- Madhepura, District- Madhepura.

... .. Claimant-Opposite Party

Appearance :

For the Petitioner/s : Mr. Ujjwal Kumar Sinha
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date : 03-12-2018

Heard learned counsel for the petitioners and the learned
counsel appearing on behalf of the opposite party.

2. The petitioners, State of Bihar & Ors., have filed this
civil revision petition against the award dated 12.07.2013, passed
in Reference Case No.165 of 2010 by Bihar Public Works
Contracts Disputes Arbitration Tribunal, Patna whereby and
whereunder the Tribunal allowed the claim of the opposite party
and directed to refund penalty compensation for delay and the
amount deducted towards VAT from the bills of the opposite party
with interest @ 10%.



3. The opposite party filed petition under Section 9 of the Bihar Public Works Contracts Disputes Arbitration Tribunal Act, 2008 (hereinafter referred to as 'the Act') for an award for the earth work done by the opposite party amounting to Rs.3,15,375/- and for release of the refund amount deducted from the bills of the opposite party for extension of time for completion of the work and for release of Rs.2,01,000/- deducted from the bills of the opposite party for payment of interest and other relief, if any. The Tribunal passed the award on 12.07.2013.

4. Learned counsel for the petitioners submits that the award is perverse and many documents have not been considered but the learned counsel for the opposite party submits that the present civil revision application has been filed against the award dated 12.07.2013, passed by the Tribunal in Reference Case No.165 of 2010 but the same award has undergone different changes. On 08.02.2014, the Tribunal passed award and made certain changes. It is further submitted that by award dated 12.07.2013 the claim of the opposite party for Rs.7,98,167/- towards carriage charge was rejected. The opposite party filed Civil Revision No.184 of 2013 and challenged the award dated 12.07.2013 to the extent which rejected the claim of the opposite party towards the earth work by carriage. This Court issued notice



to the petitioners and vide order dated 14.10.2015, passed in Civil Revision No.184 of 2013 set aside the award dated 12.07.2013 to the extent claim of the opposite party towards the earth work carriage was refused and the case was remanded back to the learned Tribunal for consideration of claim and passing award afresh (Annexure-A). It would appear from perusal of order dated 14.10.2015 passed by this Court in Civil Revision No.184 of 2013 that the State did not submit and raise any objection with regard to the award in so far it allows other claims of the opposite party. The State even did not resist the setting aside the award dated 12.07.2013 to the extent rejecting the claim of the opposite party towards the earth work. The opposite party again filed MJC No.528 of 2016 for modification of the order dated 14.10.2015 passed in C.R. No.45 of 2017. The State never raised any objection against the award dated 12.07.2013 passed in Reference Case No.165 of 2010 but after modification of the original award, the State filed this civil revision petition against the award dated 12.07.2013.

5. From the facts it appears that the learned Tribunal partly allowed Reference Case No.165 of 2010 vide award dated 12.07.2013. Being aggrieved by the award dated 12.07.2013, passed in Reference Case No.165 of 2010, the opposite party filed



Civil Revision No.184 of 2013 and this Court modified the award dated 12.07.2013, passed in Reference Case No.165 of 2010 vide order dated 14.10.2015. Again some modification was made in the order dated 14.10.2015, passed in Civil Revision No.184 of 2013 vide order passed in MJC No.528 of 2016 on 09.03.2016 but the State did not raise any objection about the illegality or perversity of the award allowing some of the claim of the opposite party either in Civil Revision No.184 of 2013 and when the award dated 12.07.2013 was modified in accordance with the order dated 14.10.2015, passed in Civil Revision No.184 of 2015. The petitioners, State of Bihar & Ors., challenged the original award dated 12.07.2013, passed in Reference Case No.165 of 2010 after about four years from the date of award, therefore, I find that the State who did not raise any objection about the previous award in Civil Revision No.184 of 2013 preferred by the opposite party, the State is not entitled to raise any objection with regard to the award after such a long period of four years although the petitioners had opportunity to raise and assail the award dated 12.07.2013 in Civil Revision No.184 of 2013 preferred by the opposite party against the award dated 12.07.2013, passed in Reference Case No.165 of 2010.



6. Having considered the facts aforesaid, I do not find any merit in this civil revision petition and the same is dismissed accordingly.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.12.2018
Transmission Date	NA

